



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

AM

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,110	02/08/2002	Takashi Miyoshi	15257	2541
7590	02/20/2004		EXAMINER	
Scully, Scott, Murphy & Presser 400 Garden City Plaza Garden City, NY 11530			BLACKMAN, ROCHELLE ANN J	
			ART UNIT	PAPER NUMBER
			2851	

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/072,110	MIYOSHI, TAKASHI
	Examiner	Art Unit
	Rochelle Blackman	2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 December 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2,8 and 12-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,2,8 and 12-18 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 10 May 2002 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 8, and 12-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase, "inner than" in the limitation "wherein the light-emitting module and the pattern projection module are provided in a space inner than the two light-receiving modules" of claim 1, renders the claims indefinite because it cannot be determined as to what the applicant regards as the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 8, and 12-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Osterweil et al., U.S. Patent No. 6,567,682.

Osterweil discloses a "stereo adapter which is mounted in front of an imaging optical system of a camera to photograph a parallax image"(see 102, 104, and 136 of Fig. 5), comprising: an "optical system which has two light-receiving modules provided so as to be spaced apart from each other by a predetermined distance in a direction of a base line to receive light from a same object and which directs the received light from each of the two light-receiving modules to the imaging optical system of the camera"(see 102 and 104 of Fig. 5); and a "light-emitting module which can emit light to illuminate the object and a pattern projection module which projects a predetermined pattern onto the object"(the controlled light condition, such as, incandescent or flash light in col. 12, lines 60-65 and 136 of Fig. 5), "wherein the light-emitting module and the pattern projection module are provided in a space inner than the two light-receiving modules; wherein said light- emitting module is disposed at an intermediate position between said two light-receiving modules; wherein the light-emitting module is provided on the base line or above the base line; wherein the pattern module is provided below the light-emitting module; wherein the pattern projection module is provided below the light-emitting module; and wherein the pattern projection module is provided below the light-emitting module"(the controlled light condition, such as, incandescent or flash light would be placed central to the "two light-receiving modules" 102, 104 to ensure even illumination of the object and see location of 136 in Fig. 5); a "position changing mechanism which can support said light-emitting module and said pattern projection module in order for their order or positions to be varied in a direction orthogonal to the base line"(see col. 12, lines 4-31); an "inputting module for inputting a photographing

timing signal from the camera; a processing circuit which alternatively performs light emission by the light-emitting module and pattern projection by the pattern projection module in accordance with an input of the photographing timing signal to the inputting module; and wherein light emission by the light-emitting module and pattern projection by the pattern projection module are performed alternatively" (see 125 and 132 of Fig. 5 and col. 12, line 60 to col. 13, line 16).

Response to Arguments

Applicant's arguments filed December 4, 2003 have been fully considered but they are not persuasive.

Applicant argues Osterweil does not teach providing a light-emitting module between the light-receiving modules". While the Examiner considers element 136 of Fig. 5 to be a "light-emitting module", since element 136 emits a pattern of light, therefore emitting light, Osterweil teaches providing illumination, in addition to element 136, and clearly the light or illumination is going to be central to the "two light-receiving modules" to ensure even illumination.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a shadow when photographing a parallax image") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993). Furthermore, Osterweil discloses image-capture approaches, such as stereoscopic (see col. 12, lines 60-61).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rochelle Blackman whose telephone number is (571) 272-2113. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell Adams can be reached on (571) 272-2851. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RB



RUSSELL ADAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800